

ENTERED

September 05, 2017

David J. Bradley, Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

STARR SURPLUS LINES INSURANCE CO.,	§	
	§	
Plaintiff,	§	
	§	
v.	§	CIVIL ACTION NO. H-16-3490
	§	
SEIBERT ENTERPRISES, LLC,	§	
	§	
Defendant.	§	

ORDER

The plaintiff, Starr Surplus Lines Insurance, filed a motion for reconsideration of this court's order denying its summary judgment motion and granting the summary judgment motion filed by the defendant, Seibert Enterprises. (Docket Entry No. 36).

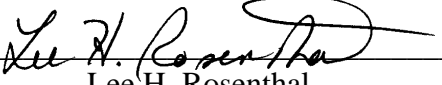
The Federal Rules of Civil Procedure do not specifically provide for motions for reconsideration. *See St. Paul Mercury Ins. Co. v. Fair Grounds Corp.*, 123 F.3d 336, 339 (5th Cir. 1997) (“[T]he Federal Rules of Civil Procedure do not recognize a general motion for reconsideration.”). A court retains the power to revise an interlocutory order before entering judgment adjudicating the parties' claims, rights, and liabilities. FED. R. CIV. P. 54(b). A Rule 59(e) motion “calls into question the correctness of a judgment.” *Templet v. HydroChem Inc.*, 367 F.3d 473, 478–79 (5th Cir. 2004) (citing *In re Transtexas Gas Corp.*, 303 F.3d 571, 581 (5th Cir. 2002)). A motion that asks the court to change an order or judgment is generally considered a motion to alter or amend under Rule 59(e). *eTool Development, Inc. v. Nat'l Semiconductor Corp.*, 881 F.Supp.2d 745, 748–49 (E.D. Tex. 2012).

A Rule 59(e) motion “‘must clearly establish either a manifest error of law or fact or must present newly discovered evidence’ and ‘cannot be used to raise arguments which could, and should, have been made before the judgment issued.’” *Rosenzweig v. Azurix Corp.*, 332 F.3d 854, 863–64

(5th Cir. 2003) (quoting *Simon v. United States*, 891 F.2d 1154, 1159 (5th Cir. 1990)). Changing an order or judgment under Rule 59(e) is an “extraordinary remedy” that courts use sparingly. *Templet*, 367 F.3d at 479; *see also* 11 WRIGHT & MILLER, FEDERAL PRACTICE & PROCEDURE § 2810.1 at 124 (2d ed. 1995). The Rule 59(e) standard “favors denial of motions to alter or amend a judgment.” *S. Constructors Grp., Inc. v. Dynalectric Co.*, 2 F.3d 606, 611 (5th Cir. 1993). A motion to reconsider may not be used to relitigate matters, raise arguments, or submit evidence that could have been presented before the judgment or order was entered. 11 WRIGHT & MILLER § 2810.1 at 127–28 (footnotes omitted). “Relief . . . is also appropriate when there has been an intervening change in the controlling law.” *Schiller v. Physicians Res. Grp. Inc.*, 342 F.3d 563, 567 (5th Cir. 2003); *accord Arceneaux v. State Farm Fire & Cas. Co.*, No. 07-7701, 2008 WL 2067044, at *1 (E.D. La. May 14, 2008) (“To obtain relief under Rule 59(e), the movant must (1) show that its motion is necessary to correct a manifest error of law or fact, (2) present newly discovered or previously unavailable evidence, (3) show that its motion is necessary to prevent manifest injustice, or (4) show that its motion is justified by an intervening change in the controlling law.”) (citation omitted).

Starr Surplus does not raise new arguments in its motion for reconsideration. Instead, Starr Surplus reurges arguments that this court rejected in its memorandum and opinion ruling on the cross-motions for summary judgment. For the reasons stated in this court’s prior opinion, Docket Entry No. 34, the motion for reconsideration is denied.

SIGNED on September 5, 2017, at Houston, Texas.



Lee H. Rosenthal
Chief United States District Judge